California Sportfishing Protection Alliance
"An Advocate for Fisheries, Habitat and Water Quality"
3536 Rainier Avenue, Stockton, CA 95204
T: 209-464-5067, F: 209-464-1028, E: deltakeep@me.com, W: www.calsport.org

13 August 2013

Mr. Ken Landau, Assistant Executive Officer
Mr. Jim Marshall, Senior WRCE
Ms. Kathleen Harder, WRCE
Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6144

VIA: Electronic Submission
Hardcopy if Requested

RE: Order Amending Waste Discharge Requirements Order R5-2010-0114-01 (NPDES Permit No. CA0077682) and Time Schedule Order R-5-2010-0115-01 for Sacramento Regional County Sanitation District, Sacramento Regional Wastewater Treatment Plant

Dear Messrs. Landau, Marshall and Ms. Harder,

The California Sportfishing Protection Alliance (CSPA) has reviewed the proposed Waste Discharge Requirements (NPDES No. CA0077682) for the Sacramento Regional Wastewater Treatment Plant (Permit) and submits the following comments.

CSPA requests status as a designated party for this proceeding. CSPA is a 501(c)(3) public benefit conservation and research organization established in 1983 for the purpose of conserving, restoring, and enhancing the state's water quality and fishery resources and their aquatic ecosystems and associated riparian habitats. CSPA has actively promoted the protection of water quality and fisheries throughout California before state and federal agencies, the State Legislature and Congress and regularly participates in administrative and judicial proceedings on behalf of its members to protect, enhance, and restore California's degraded water quality and fisheries. CSPA members reside, boat, fish and recreate in and along waterways throughout the Central Valley, including Sacramento, County.

1. The proposed Permit Contains Compliance Schedules Beyond Those Allowed by the Basin Plan and Contrary to California Water Code Section 13377.

The proposed Permit contains modification to the original Permit. Many of the revisions are to extend the compliance period from 1 December 2020 to 9 May 2023. The Permit was adopted in 2010. The Permit contained a ten-year compliance schedule for numerous constituents and for compliance with the requirement to provide a tertiary level of treatment. The proposed Permit would extend the compliance period from 2010 to 2023, a thirteen-year period. (The schedules

are throughout the proposed Permit such as in the footnotes to the Effluent Limitations Table and Interim Effluent Limitations section.)

The Water Quality Control Plan (Basin Plan), page IV-17.00, allows the Regional Board to establish compliance schedules in NPDES permits, provided that: the schedules are based on the shortest practicable time required to achieve compliance, and; in no event shall allow more than ten years to achieve compliance.

California Water Code, section 13377, requires that: "Notwithstanding any other provision of this division, the state board and the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance." The proposed Permit is required to comply with the Basin Plan limitations for compliance schedules.

The proposed Permit contains no documentation that the compliance schedule is based on the "shortest practicable time" and the allowed compliance period exceeds the ten years allowed by the Basin Plan. The proposed Permit amendments providing for a compliance period beyond that allowed by the Basin Plan should not be adopted.

2. The proposed Permit Removes an Effluent Limitation for N-nitrodimethylamine (NDMA) Contrary to Federal Regulations 40 CFR 122.44.

Federal regulations 40 CFR 122.44 (l)(1) have been adopted to implement the antibacksliding requirements of the CWA:

> (l) Reissued permits. (1) Except as provided in paragraph (l)(2) of this section when a permit is renewed or reissued, interim effluent limitations, standards or conditions must be at least as stringent as the final effluent limitations, standards, or conditions in the previous permit (unless the circumstances on which the previous permit was based have materially and substantially changed since the time the permit was issued and would constitute cause for permit modification or revocation and reissuance under Sec. 122.62.)
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> (2) In the case of effluent limitations established on the basis of Section 402(a)(1)(B) of the CWA, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under section 304(b) subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit.
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> (i) Exceptions--A permit with respect to which paragraph (l)(2) of this section applies may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant, if:

(A) Material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation;

(B)(1) Information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or (2) The Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under section 402(a)(1)(b);

(C) A less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

(D) The permittee has received a permit modification under section 301(c), 301(g), 301(h), 301(i), 301(k), 301(n), or 316(a); or

(E) The permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification).

(ii) Limitations. In no event may a permit with respect to which paragraph (l)(2) of this section applies be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, issued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under section 303 applicable to such waters.

The Permit (R5-2010-0114) contains a discussion of the Reasonable Potential Analysis for NDMA beginning on page F-65, which shows that 15% of the effluent samples were detected above the water quality criterion. This section of the Permit also notes that NDMA was used to make rocket fuel. The Permit and the proposed Permit fail to note that Aerojet Corporation is located within the wastewater collection system service area and is documented to have significant pollution from rocket fuel on and surrounding their site. There are also two now closed military bases within the service area that have been shown to be polluted with exotic chemicals. The Permit documents issues with the laboratory detection level and there does not appear to be any "new" information available that was not available when the permit was written. The use of rocket fuel within the service area would support that a reasonable potential exists for NDMA. The proposed Permit does not meet the federal regulatory requirements for allowing backsliding and removal of the Effluent Limitation for NDMA.

3. The proposed Permit relaxes Effluent Limitations for Chlorodibromomethane and Dichlorobromomethane contrary to the Antidegradation Policy (Resolution 68-16) and the Basin Plan Requirements for Mixing Zones.

The proposed Permit allows relaxation of Effluent Limitations for Chlorodibromomethane and Dichlorobromomethane from 2.2 ug/l and 3.4 ug/l to 12 ug/l and 35 ug/l, respectively. The California Toxics Rule (CTR) Water Quality Standards for Chlorodibromomethane and Dichlorobromomethane are 0.41 ug/l and 0.56 ug/l, respectively. The adopted Permit had already allowed for a mixing zone for these constituents. The proposed Permit allows the CTR Water Quality Standard for Chlorodibromomethane and Dichlorobromomethane to be exceeded, above the drinking water standard, within a mixing zone 3 miles long. The wastewater discharge is up to 181 million gallons per day. This is 17.5 pounds and 52 pounds per day of Chlorodibromomethane and Dichlorobromomethane, respectively above the drinking water quantity allowed by the regulatory Standard, the CTR. Chlorodibromomethane and Dichlorobromomethane assessed alone are possible human carcinogens; however they are part of total Trihalomethanes, which have been determined to be carcinogenic.

Chlorodibromomethane and Dichlorobromomethane are formed when chlorine mixes with organic matter. The proposed Permit allows for the continued use of chlorine as a disinfectant and hence the formation of Chlorodibromomethane and Dichlorobromomethane. As a part of the Permit (R5-2010-0114) the Regional Board found that disinfection of wastewater with ultraviolet light (UV) was best practicable treatment and control (BPTC) of the discharge. BPTC must be applied as is required by the Antidegradation Policy, which is incorporated into the Water Quality Control Plan (Basin Plan). In the Permit (R5-2010-0114) the Regional Board made much of the fact that most other wastewater treatment plants in the area provided tertiary treatment, secondary treatment plus filtration plus disinfection with UV. The BPTC assessment regarding tertiary treatment and UV disinfection can be found throughout the Fact Sheet of R5-2010-0114, for example see Table F-17.

The proposed Permit contains a short and incomplete reassessment of antidegradation, pages F-99 and F-100. The Discharger assessed alternatives to the use of chlorine: chlorine gas, liquid chlorine, and preozination with UV disinfection. Based on this assessment, the proposed Permit concludes that the use of liquid chlorine is BPTC because UV disinfection would increase the carbon footprint of the wastewater treatment plant and increase the use of greenhouse gasses. The proposed permit fails to discuss carbon footprints for the wastewater treatment plants cited in Table F-17, where the Regional Board required the use of UV disinfection.

The costs associated with providing tertiary treatment including filtration and UV disinfection were assessed in Order R5-2010-0114. The proposed Permit does not contain any economic revisions to the Antidegradation Policy provided in R5-2010-0114, especially as it relates to the many wastewater treatment plants already providing UV disinfection as a requirement of the Regional Board. Changing the assessment for Sacramento Regional wastewater treatment plant would logically be the same for the other wastewater treatment plants cited in table F-17. There is no new information presented in the proposed Permit regarding economics that changes the assessment done in R5-2010-0114. The undocumented unsupported statement regarding

economic costs to Sacramento Regional, which were the same at the other cited WWTPs relative to size, are not sufficient to support an Antidegradation Policy Assessment.

The logical treatment alternatives to address the carbon footprint and greenhouse gasses are providing solar power for electrical needs and providing activated carbon treatment to remove trihalomethanes following chlorination; neither of these alternatives were discussed as being considered in the Antidegradation analysis.

The Regional Board does not cite their authority to trade carbon offsets and greenhouses gas generation for water quality considerations. The Regional Board also does not cite any expertise in conducting any such environmental tradeoff analysis. As cited above the proposed Permit amendments would allow an additional 69.5 pounds per day of Chlorodibromomethane and Dichlorobromomethane; how many pounds per day of greenhouse gasses is an equivalent trade? Has the Regional Board entered the world of trading water quality for some level of unquantified air quality protection? The proposed Permit requires that Sacramento Regional conduct an environmental analysis for construction of the new segments of the wastewater treatment process; making a determination regarding trading air and water quality environmental impacts should be a part of the CEQA process, not an NPDES permitting decision.

Chlorodibromomethane and Dichlorobromomethane have not been assessed for their possible impact on irrigated food crops. Page F-73 of the Permit states that there are at least 20 agricultural diversions within 1 mile upstream and 2 miles downstream of the wastewater discharge. The Regional Board states that wastewater will not be uptaken by the irrigation intakes since the wastewater plume stays central in the river. However, Tetra Tech, in a memo dated 30 June 2008, states that a dye test of the wastewater discharge from the Sacramento Regional WWTP showed high dye concentrations near the eastern bank just downstream of the diffuser. This actually confirms that wastewater may indeed be uptaken by the irrigation pumps. The proposed Permit contains no documentation that addresses Tetra Tech's comments that wastewater was observed flowing at the river bank during the cited dye test. There has been no investigation of the impacts of Chlorodibromomethane and Dichlorobromomethane on irrigated agricultural crops. The Regional Board does not have any scientific information to show that the agricultural beneficial uses of the Sacramento River are protected.

The CTR Water Quality Standard for Chlorodibromomethane and Dichlorobromomethane are not based solely on drinking water uses but also the ingestion of fish. The proposed Permit does not have any discussion of eating fish from waters within the mixing zone where the levels of Chlorodibromomethane and Dichlorobromomethane are allowed to be discharged significantly above the water quality standard. For example; Dichlorobromomethane can be discharged at a concentration 62 times higher that the water quality standard that was developed as being safe for ingesting water and consuming organisms; however the proposed Permit fails to state that ingesting aquatic organisms is safe at the levels being discharged into the mixing zone. Numerous comments on the original Permit stated that fish are attracted to wastewater plumes and also documented that fish may linger in an area for quite some time including during critical life stages. It is doubtful that the Regional Board has any documentation that ingestion of fish under these circumstances where a potential carcinogen is discharged at 60 times the water quality standard is safe; certainly none is presented in the proposed Permit.

The Sacramento Regional wastewater treatment plant discharges into the Sacramento River within the Delta. Page F-19, of the Permit states that: "*The Delta is vital to California and comprises over 700 miles of interconnected waterways and encompasses 1,153 square miles. The Delta is home to over two hundred eighty species of birds and more than fifty species of fish, making it one of the most ecologically important aquatic habitats in the State. Drinking water for over 25 million Californians is pumped from the Delta via the State Water Project, Central Valley Water Project, and local water intakes.*" The proposed Permit amendments would allow an additional 69.5 pounds per day of Chlorodibromomethane and Dichlorobromomethane to be discharged into the Delta a source of drinking water for millions of California. It is incredible that the proposed Permit states that allowing the discharge of almost 70 pounds per day of possible human carcinogens and chemicals that are a part of total Trihalomethanes which have been determined to be carcinogenic is in the best interest of the people of California. The proposed Permit allows 3 miles of the Delta to exceed drinking water quality standards for Chlorodibromomethane and Dichlorobromomethane; degrading the drinking water beneficial for 3 miles use cannot possibly be in the interest of millions of Californians who depend on the Delta for their drinking water. Finding that the degradation of water quality is in the interest of the people of California is a critical element of the Antidegradation Policy. In the original Permit, the Regional Board found that tertiary treatment was best practicable treatment and control (BPTC) was in the best interest of the people of California as required by the Antidegradation Policy. The list wastewater Dischargers cited in the Permit as locally providing this level of treatment almost without exception use ultraviolet light and not chlorine for disinfecting their waste stream thereby avoiding the generation of Chlorodibromomethane and Dichlorobromomethane; the proposed Permit amendment would eliminate this argument based on scant information regarding greenhouse gas generation and a simplistic and inadequate alternatives analysis.

The proposed Permit amendment does not require BPTC and is not in the best interest of the people of California and therefore does not comply with the Antidegradation Policy.

Thank you for considering these comments. If you have questions or require clarification, please don't hesitate to contact us.

Sincerely,

Bill Jennings, Executive Director
California Sportfishing Protection Alliance

Cc: Richard McHenry
Andrew Packard